

Appl. No. 09/755,948
Amdt. Dated November 3, 2004
Reply to Office Action of September 7, 2004
Attorney Docket No. P12682/27943-00403USPT
EUS/J/PD-8885

REMARKS/ARGUMENTS

1.) Claim Status

Claims 37-40 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the following remarks.

2.) Claim Rejections – 35 U.S.C. § 103(a)

On page 3 of the Office Action, the Examiner rejected claims 37-40 under 35 U.S.C. § 103(a) as being unpatentable over Gledje (US Patent Publication No. 2002/0032771).

The Applicant contends that Gledje is disqualified as prior art under 35 U.S.C. § 103(c) because Gledje was commonly owned by the Applicant at the time the invention was made. More specifically, MPEP 706.02(l)(1) states:

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design, and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution applications filed under 37 CFR 1.53(d), and reissues.

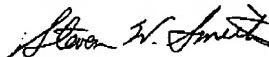
The instant application was filed on January 5, 2001, which is after November 29, 1999. Applicant respectfully notes that the instant application and Gledje were, at the time the invention was made, all owned by the same entity – Telefonaktiebolaget LM Ericsson. The ownership information for Gledje is shown in an assignment recorded with the U.S. Patent and Trademark Office on October 29, 2001 at reel 012289, frame 0372. The ownership information for the instant application is shown in an assignment recorded with the U.S. Patent and Trademark Office on May 3, 2001 at reel 011760, frame 0315.

Appl. No. 09/755,948
Arndt, Dated November 3, 2004
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EUS/J/P/04-8885

As a result, all of the requirements of 35 U.S.C. 103(c) have been met, and Gledje is disqualified as a prior art reference in the instant application. None of the secondary references cited by the Examiner teach or suggest the claimed invention. Therefore, Applicant respectfully requests the withdrawal of the rejection and the issuance of a Notice of Allowance for claims 37-40.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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